



Paper No. 5

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K STREET, NW
BOX 1P
WASHINGTON, DC 20007

COPY MAILED

AUG 11 2003

OFFICE OF PETITIONS

In re Application of
Edwards et al.
Application No. 10/014,874

:
: DECISION DISMISSING
: PETITION
: UNDER 37 CFR 1.137(f)
: AS MOOT
:

Filed: December 14, 2001
Attorney Docket No. 19903.0011

This is a decision on the "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))," filed May 6, 2003.

The petition is **DISMISSED AS MOOT**.

Petitioner states that the instant nonprovisional application became the subject of an application filed in an eighteen-month country on August 14, 2002. A review of the file record discloses that a Notice to Rescind was received in the U.S. Patent and Trademark Office on August 14, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. *See Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)*, 1272 OG 22 (July 1, 2003).

In the instant application, a notice to rescind was filed on the date of filing of the counterpart application in an eighteen-month publication country. Therefore, since receipt in the U.S. Patent and Trademark Office of the request to rescind on the date of the filing of the corresponding application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of \$1,300 is being credited to Deposit Account No. 19-5127, as authorized.

This application is being forwarded to Technology Center 2131 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

A handwritten signature in cursive script, appearing to read "Nancy Johnson".

Nancy Johnson
Petitions Attorney
Office of Petitions